

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

FLORENCE JOHNSON-FRANKLIN,  
  
Plaintiff,

CASE NO.: **21-cv-10663**  
HON  
MAG. JUDGE

v

WALMART, INC.,  
  
Defendant.

---

JONATHAN R. MARKO (P72450)  
KATHERINE H. OLDS (P84603)  
MARKO LAW, PLLC  
Attorneys for Plaintiff  
1300 Broadway Street, Fifth Floor  
Detroit, MI 48226  
Phone: 313-777-7LAW  
Facsimile: 313-771-5785  
Email: [Katherine@markolaw.com](mailto:Katherine@markolaw.com)

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RICHARD G. SZYMCZAK (P29230)  
ROCHELLE L. CLARKE (P79054)  
PLUNKETT COONEY  
Attorneys for Defendant  
38505 Woodward Avenue, Suite 100  
Bloomfield Hills, MI 48304  
Phone: 248-342-7007 / 810-342-7020  
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Email: [rszymczak@plunkettcooney.com](mailto:rszymczak@plunkettcooney.com)  
Email: [rclarke@plunkettcooney.com](mailto:rclarke@plunkettcooney.com)

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**NOTICE OF REMOVAL OF CAUSE TO THE  
UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION**

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NOW COMES the Defendant, WAL-MART STORES EAST, LP  
misidentified as WALMART, INC. by and through its attorneys, PLUNKETT

COONEY, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby notify this Honorable Court of the removal of this action for the following reasons:

1. On or about February 17, 2021, Plaintiff filed a lawsuit which is now pending in the Circuit Court for the County of Wayne, State of Michigan, bearing Case No.: 21-002187-NO.

2. Defendant was served with the Summons and Complaint via certified mail on or about February 23, 2021.

3. This action is a suit at common law of a civil nature, as alleged in Plaintiff's Complaint, brought by Plaintiff, Florence Johnson-Franklin, against Defendant, Wal-Mart Stores East, LP, misidentified as Walmart Inc., for negligence and premises liability, in which Plaintiff seeks monetary damages.

4. This action involves a controversy which is wholly between citizens of different states. Plaintiff commenced this action in the County of Wayne and is a resident of the State of Michigan. Defendant is a Delaware limited partnership whose members are WSE Management, LLC and WSE Investment LLC, both of which are Delaware limited liability companies based in Arkansas. The sole member of both WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC, which is an Arkansas limited liability company with its principal place of business in Bentonville, Arkansas. The sole member of Wal-Mart Stores East LLC is Wal-Mart Inc., formerly Wal-

Mart Stores, Inc., a Delaware corporation with its principal place of business in Bentonville, Arkansas.

5. This action filed by Plaintiff against Defendant is one involving complete diversity of citizenship under 28 U.S.C. § 1332(a) as a civil action between a citizen of the State of Michigan and the States of Delaware and Arkansas.

6. This action is one over which the District Courts of the United States are given original jurisdiction.

7. The time in which Defendant is required to file this Notice of Removal to Federal Court has not yet expired.

8. Pursuant to Plaintiff's Complaint, Plaintiff seeks to recover monetary damages in connection with alleged injuries sustained as a result of Defendant's alleged negligence.

9. Pursuant to Plaintiff's Complaint, Plaintiff seeks to recover damages in excess of \$25,000.00 together with costs, interest and attorney fees in this matter, and further alleges that Plaintiff sustained numerous and serious injuries to her person. Defendant asserts that, more likely than not, the amount in controversy exceeds the jurisdictional requirements of 28 U.S.C. § 1332(a) if Plaintiff prevails on her claims, which include, but are not limited to, alleged "limited mobility, ankle injury, back injury possibly requiring

surgery, joint injury, physical pain and suffering, emotional trauma and suffering, swelling and bruising.” Plaintiff further contends she has entitled to recovery for “medial costs, loss of wages and/or earning capacity, ... and future damages.” Plaintiff has likewise declined to cap her damages below this court’s jurisdictional limit.

10. Under 28 U.S.C. § 1441 *et seq.*, Defendant is entitled to remove this action to the United States District Court for the Eastern District of Michigan, since the district court would have had original jurisdiction over Plaintiff’s claims. Attached to this Notice of Removal is a copy of the Summons and Complaint setting forth Plaintiff’s claims for relief. A written Notice of the Filing of this Removal has been given to all parties as required by law and is attached hereto.

11. A true and correct copy of this Notice of Filing Removal and Notice of Removal is filed with the Clerk of the Court of the County of Wayne, State of Michigan, as provided by law.

Respectfully submitted,

**PLUNKETT COONEY**

By /s/ Rochelle L. Clarke  
RICHARD G. SZYMCAK (P29230)  
ROCHELLE L. CLARKE (P79054)  
PLUNKETT COONEY

Attorneys for Defendant  
38505 Woodward Avenue, Suite 100  
Bloomfield Hills, MI 48304  
Phone: 248-342-7007/ 810-342-7020  
Facsimile: 248-901-4040  
Email:rszymczak@plunkettcooney.com  
Email: rclarke@plunkettcooney.com

Dated: March 25, 2021

**PROOF OF SERVICE**

KIMBERLY WEBSTER certifies that on the 25<sup>th</sup> day of March, 2021, she caused to be served a copy of NOTICE OF REMOVAL OF CAUSE TO THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION and PROOF OF SERVICE via CM/ECF electronic filing with the United States District Court for the Eastern District of Michigan, Southern Division, which will provide notice of this electronic filing to counsel of record.

**/s/Kimberly Webster**  
KIMBERLY WEBSTER

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STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNT OF WAYNE

FLORENCE JOHNSON-FRANKLIN,  
  
Plaintiff,

Case No: 21-002187-NO  
Honorable Martha M. Snow

v

WALMART, INC.,  
  
Defendant.

---

JONATHAN R. MARKO (P72450)  
KATHERINE H. OLDS (P84603)  
MARKO LAW, PLLC  
Attorneys for Plaintiff  
1300 Broadway Street, Fifth Floor  
Detroit, MI 48226  
Phone: 313-777-7LAW  
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Email: [Katherine@markolaw.com](mailto:Katherine@markolaw.com)

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Email: [rclarke@plunkettcooney.com](mailto:rclarke@plunkettcooney.com)

---

**NOTICE OF FILING REMOVAL**

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**TO: CLERK OF THE COURT  
WAYNE COUNTY CIRCUIT COURT  
2 WOODWARD AVENUE  
DETROIT, MI 48226**

**-and-**

**KATHERINE H. OLDS  
1300 Broadway Street, Fifth Floor  
Detroit, MI 48226  
Email: [Katherine@markolaw.com](mailto:Katherine@markolaw.com)**

**PLEASE TAKE NOTICE** that Defendant have this day filed its Notice of Removal of this matter to the United States District Court, with the office of the Clerk of the Court for the United States District Court, Eastern District of Michigan, Southern Division, copies of which are attached hereto.

Respectfully submitted,

**PLUNKETT COONEY**

By /s/ Rochelle L. Clarke  
RICHARD G. SZYMCAK (P29230)  
ROCHELLE L. CLARKE (P79054)  
PLUNKETT COONEY  
Attorneys for Defendant  
38505 Woodward Avenue, Suite 100  
Bloomfield Hills, MI 48304  
Phone: 248-342-7007/ 810-342-7020  
Facsimile: 248-901-4040  
Email: rszymczak@plunkettcooney.com  
Email: rclarke@plunkettcooney.com

Dated: Thu, Mar 25, 2021

**PROOF OF SERVICE**

The undersigned certifies that on the 25<sup>th</sup> day of March, 2021, a copy of the foregoing document was served upon the attorney(s) of record in this matter at their stated business address as disclosed by the records herein via:

<input type="checkbox"/> Hand delivery	<input type="checkbox"/> Overnight mail
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> Facsimile
<input type="checkbox"/> E-Mail	<input checked="" type="checkbox"/> Electronic e-file

I declare under the penalty of perjury that the foregoing statement is true to the best of my information, knowledge and belief.

*Kimberly Webster*

---

Kimberly Webster

# ***Summons and Complaint***





**Service of Process  
Transmittal**

02/23/2021

CT Log Number 539099861

**TO:** Kim Lundy Service Of Process  
Walmart Inc.  
702 SW 8TH ST  
BENTONVILLE, AR 72716-6209

**RE: Process Served in Michigan**

**FOR:** WALMART INC. (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Franklin Florence Johnson, Pltf. vs. Walmart, Inc., Dft.  
*Name discrepancy noted.*

**DOCUMENT(S) SERVED:** Letter, Summons, Complaint, Request, Certificate

**COURT/AGENCY:** Wayne County - 3rd Circuit Court, MI  
Case # 21002187NO

**NATURE OF ACTION:** Personal Injury - Slip/Trip and Fall - 05/23/2020 at 5851 Mercury Dr., Dearborn, MI 48126

**ON WHOM PROCESS WAS SERVED:** The Corporation Company, Plymouth, MI

**DATE AND HOUR OF SERVICE:** By Certified Mail on 02/23/2021 postmarked on 02/18/2021

**JURISDICTION SERVED :** Michigan

**APPEARANCE OR ANSWER DUE:** Within 28 days

**ATTORNEY(S) / SENDER(S):** Jonathan Robert Marko  
Marko Law, PLLC  
1300 Broadway Street  
Fifth Floor  
Detroit, MI 48226  
313-777-7LAW

**ACTION ITEMS:** CT has retained the current log, Retain Date: 02/24/2021, Expected Purge Date: 03/01/2021  
  
Image SOP  
  
Email Notification, Kim Lundy Service Of Process ctlawsuits@walmartlegal.com

**REGISTERED AGENT ADDRESS:** The Corporation Company  
40600 Ann Arbor Road E  
Suite 201  
Plymouth, MI 48170  
877-564-7529  
MajorAccountTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other



**Service of Process  
Transmittal**

02/23/2021

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Walmart Inc.  
702 SW 8TH ST  
BENTONVILLE, AR 72716-6209

**RE: Process Served in Michigan**

**FOR:** WALMART INC. (Domestic State: DE)

advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



1300 BROADWAY, FIFTH FLOOR  
DETROIT, MICHIGAN 48226

Case 2:21-cv-10663-BAF-CI ECF No. 1, PageID.11 Filed 03/25/21 Page 11 of 35



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**US POSTAGE**  
**\$006.26<sup>0</sup>**

**First-Class**

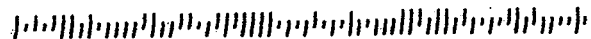
**ZIP 48081**

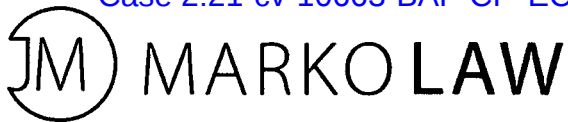
02/18/2021

033A 0071808756

Walmart, Inc.  
c/o The Corporation Company  
40600 Ann Arbor Rd., E, Suite 201  
Plymouth, MI 48170

4817034675 CO21





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P. (313) 777-7LAW F. (313) 771-5785

February 18, 2021

**SENT VIA CERTIFIED MAIL**

Walmart, Inc.  
c/o The Corporation Company  
40600 Ann Arbor Rd., E., Suite 201  
Plymouth, MI 48170

***Re: Johnson-Franklin v. Walmart, Inc.***

Dear Registered Agent:

Enclosed please find a Summons, Complaint, and Jury Demand related to the above referenced lawsuit. Please forward to your attorney at your earliest convenience.

Very truly yours,

**MARKO LAW, PLLC**

A handwritten signature in black ink, appearing to read 'Heather Ducharme', written over a horizontal line.

Heather Ducharme  
Paralegal to Kirstina R. Magyari, Esq.  
1300 Broadway, 5th Floor  
Detroit, MI 48226  
Telephone/Fax: (313) 528-0118  
Heather@markolaw.com

MAIN OFFICE:  
1300 BROADWAY ST. | 5TH FLOOR  
DETROIT MI 48226

PLEASE DIRECT ALL MAIL  
TO OUR DETROIT OFFICE

MID MICHIGAN OFFICE:  
600 EAST BROADWAY, SUITE 101  
MOUNT PLEASANT, MI 48858

STATE OF MICHIGAN  
THIRD JUDICIAL CIRCUIT  
WAYNE COUNTY

## SUMMONS

CASE NO.  
21-002187-NO  
Hon.Martha M. Snow

Court address : 2 Woodward Ave., Detroit MI 48226

Court telephone no.: 313-224-6889

Plaintiff's name(s), address(es), and telephone no(s)  
Johnson-Franklin, Florence

v

Defendant's name(s), address(es), and telephone no(s).  
Walmart, Inc.

Plaintiff's attorney, bar no., address, and telephone no

Jonathan Robert Marko 72450  
1300 Broadway St Ste 500  
Detroit, MI 48226-2274**Instructions:** Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (form MC 21). The summons section will be completed by the court clerk.**Domestic Relations Case**

- ☒ There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- ☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (form MC 21) listing those cases.
- ☐ It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

**Civil Case**

- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035
- ☒ MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

been previously filed in ☐ this court, ☐ \_\_\_\_\_ Court,

where it was given case number \_\_\_\_\_ and assigned to Judge \_\_\_\_\_.

The action ☐ remains ☐ is no longer pending.

Summons section completed by court clerk.

SUMMONS

**NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party or **take other lawful action with the court** (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date  
2/17/2021Expiration date\*  
5/19/2021Court clerk  
Angila Mayfield

Cathy M. Garrett- Wayne County Clerk.

\*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

MC 01 (9/19)

SUMMONS

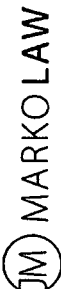
MCR 1.109(D), MCR 2.102(B), MCR 2.103, MCR 2.104, MCR 2.105



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DETROIT, MI 48226

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**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE**

FLORENCE JOHNSON-FRANKLIN,

Plaintiff,

Case No. 21-

-NO

Honorable

-V-

WALMART, INC.,

Defendant.

---

JONATHAN R. MARKO (P72450)

KATHERINE H. OLDS (P84603)

**MARKO LAW, PLLC**

Attorneys for Plaintiff

1300 Broadway Street, Fifth Floor

Detroit, MI 48226

Phone: (313) 777-7LAW

Fax: (313) 771-5785

katherine@markolaw.com

---

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action, not between these parties, arising out of the same transaction or occurrence as alleged in this Complaint that is either pending or was previously filed and dismissed, transferred or otherwise disposed of after having been assigned to a Judge in this Court.

---

**COMPLAINT AND JURY REQUEST**

NOW COMES the above-named Plaintiff, by and through her attorneys, MARKO LAW, PLLC, and for her Complaint against the above-named Defendant, states as follows:

**INTRODUCTION**

1. This is an action for money damages brought pursuant to the statutes and common law of the State of Michigan against Walmart, Inc.

2. This lawsuit arises out of events occurring within the City of Dearborn, County of Wayne, State of Michigan.

3. This Court has jurisdiction as a result of the damages sustained by the Plaintiff and the amount in controversy in this case is well in excess of this Court's jurisdictional limits.

### **PARTIES**

4. Plaintiff is a resident of Detroit, Michigan.

5. Defendant Walmart, Inc., was, at all times relevant hereto, a corporation doing business across the County of Wayne, Michigan.

### **COMMON FACTUAL ALLEGATIONS**

6. This lawsuit arises out of a slip and fall occurring at Walmart Supercenter at 5851 Mercury Dr., Dearborn, MI 48126 on or about May 23, 2020.

7. Defendant had control of subject premises.

8. Plaintiff was an invitee of Defendant.

9. Plaintiff was walking in the produce area of which Defendant had control.

10. The floor of the produce area had a puddle of spilled water that blended into the shiny floor.

11. No warning sign was present to inform Plaintiff of the floor's condition.

12. Defendant failed to warn Plaintiff in any way of the dangerous conditions that existed at the subject premises.

13. Unbeknownst to Plaintiff, the wet floor was hazardous.

14. Due to the floor's defective condition, Plaintiff fell as she tried to walk through the produce area.

15. Plaintiff could not see the defective condition of the floor before or as she stepped on it.

16. Due to the fall, Plaintiff was stuck on the floor, unable to get up and walk away.

17. Plaintiff laid on the floor for 45 minutes waiting for an ambulance.

18. Defendant's employees put a "wet floor" sign in the area after she fell.

19. Plaintiff was taken to the emergency room by ambulance and she has required continued appointments with orthopedic doctors and physical therapists and may require back surgery due to the fall.

20. Plaintiff has been unable to return to her job as a home help aid and has only recently been able to begin working "light duty" chores.

21. Plaintiff has incurred and continues to incur hospital bills she cannot pay and Defendant's claims services department has refused her request for medical bill reimbursement.

22. As a result of the slip and fall and Defendant's negligence, Plaintiff has suffered severe and permanent injuries.

**COUNT I**  
**NEGLIGENCE**


23. Plaintiff herein by reference incorporates paragraphs 1 through 22 of her Complaint as though fully set forth herein.

24. At all times, the Defendant owed to Plaintiff a duty to maintain its premises and place of business in a reasonably safe condition, to exercise ordinary care to protect Plaintiff from unreasonable risks of injury that were known or should have been known by Defendant, to warn

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DETROIT, MI 48226

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Plaintiff of any and all dangerous conditions existing on Defendant's property, to inspect and discover possible dangerous conditions, and to render assistance to Plaintiff after she was injured.

25. Defendant knew and/or should have known that the floor was dangerous.

26. Defendant breached its duties to Plaintiff in numerous ways, including but not limited to the following:

- a. Failing to keep the floor safe;
- b. Failing to warn its invitees and/or business visitors of the dangers associated with the walkway;
- c. Failing to maintain the premises in a reasonably safe condition;
- d. Failing to inspect the floor for hazards, dangers, and improper conditions at the premise;
- e. Failing to clear the floor of hazards, dangers, and improper conditions at the premise; and
- f. Failure to properly train, supervise, and retain its employees.

27. As a direct and proximate result of Defendant's negligence as described above, Plaintiff has suffered and will continue to suffer damages, including but not limited to:

- a. Limited mobility;
- b. Ankle injury;
- c. Back injury possibly requiring surgery;
- d. Joint injury;
- e. Physical pain and suffering and emotional trauma and suffering;
- f. Swelling and bruising;
- g. Medical costs;

- h. Loss of wages and/or earning capacity;
- i. Damaged credit;
- j. Denial of social pleasure and enjoyment;
- k. Depression
- l. Future damages;
- m. Any and all other damages that become known the course of discovery in this matter.

**COUNT II**  
**PREMISE LIABILITY**

28. Plaintiff herein by reference incorporates paragraphs 1 through 27 of her Complaint as though fully set forth herein.

29. At all times mentioned herein, Defendant negligently, carelessly and recklessly owned, leased, rented, occupied, possessed, designed, constructed, developed, landscaped, operated, inspected, repaired, maintained, modified, managed, controlled and/or supervised the subject premises, and/or permitted or created the dangerous condition on the subject premises so as to cause or allow dangerous and/or defective conditions thereon, and that at all times mentioned herein, the conditions of said premises were such that individuals upon the subject premises, including Plaintiff, were exposed to danger and injury while lawfully on the subject premises.

30. Defendant failed to warn Plaintiff of the dangerous conditions that existed at the subject premises.

31. Defendant knew, or in the exercise of reasonable care should have known, that unless reasonable inspection, care, control and maintenance were taken of the subject premises, that a dangerous but deceptive condition would exist on the premises Defendant controlled.

Defendant negligently failed to take reasonable precautions to prevent injuries to persons lawfully on the subject premises, including Plaintiff.

32. Defendant breached its duties to Plaintiff in numerous ways, including but not limited to the following:

- a. Failing to keep the floor safe.
- b. Failing to warn its invitees and/or business visitors of the dangers associated with the floor.
- c. Failure to take other corrective measures.
- d. Failing to maintain the premises in a reasonably safe condition.
- e. Failing to inspect the walkway for hazards, dangers, and improper conditions at the premise.
- f. Failing to clear the walkway of hazards, dangers, and improper conditions at the premise.
- g. Failure to properly train, supervise, and retain its employees.

33. As a direct and proximate result of Defendant's negligence as described above, Plaintiff has suffered and will continue to suffer damages, including but not limited to:

- a. Limited mobility;
- b. Ankle injury;
- c. Back injury possibly requiring surgery;
- d. Joint injury;
- e. Physical pain and suffering and emotional trauma and suffering;
- f. Swelling and bruising;
- g. Medical costs;

- h. Loss of wages and/or earning capacity;
- i. Damaged credit;
- j. Denial of social pleasure and enjoyment;
- k. Depression
- l. Future damages;
- m. Any and all other damages that become known the course of discovery in this matter.

**WHEREFORE**, Plaintiff prays for judgment against Defendant in whatever amount the Court or Jury determines to be fair, just, and adequate compensation for the injuries and damages sustained, together with interest, court costs and attorney fees.

Respectfully submitted,

/s/ Katherine H. Olds  
Katherine H. Olds (P84603)  
**Marko Law, PLLC**  
Attorneys for Plaintiffs  
1300 Broadway Street, Fifth Floor  
Detroit, Michigan 48226  
(313) 777-7LAW / Fax: (313) 771-5785  
katherine@markolaw.com

Dated: February 17, 2021

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing instrument was served upon the attorneys of record of all parties to the above cause, by e-filing with the Circuit Court on February 17, 2021.

/s/ Heather Ducharme

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

FLORENCE JOHNSON-FRANKLIN,

Plaintiff,

Case No. 21-

-NO

Honorable

-V-

WALMART, INC.

Defendant.

---

JONATHAN R. MARKO (P72450)  
KATHERINE H. OLDS (P84603)  
**MARKO LAW, PLLC**  
Attorney for Plaintiff  
1300 Broadway Street, Fifth Floor  
Detroit, MI 48226  
Phone: (313) 777-7LAW  
Fax: (313) 771-5785  
katherine@markolaw.com

---

**REQUEST FOR JURY TRIAL**

NOW COMES Plaintiff, by and through her attorneys, MARKO LAW, PLLC, and requests a trial by jury in the above-captioned matter.

Respectfully submitted,

/s/ Katherine H. Olds

Katherine H. Olds (P84603)

**Marko Law, PLLC**

Attorneys for Plaintiffs

1300 Broadway Street, Fifth Floor

Detroit, Michigan 48226

(313) 777-7LAW / Fax: (313) 771-5785

katherine@markolaw.com

Dated: February 17, 2021

**CERTIFICATE OF SERVICE**


The undersigned certifies that a copy of the foregoing instrument was served upon the attorneys of record of all parties to the above cause, by e-filing with the Circuit Court on February 17, 2021.

/s/ Heather Ducharme

MARKOLAW.COM

1300 BROADWAY ST. | 5TH FLOOR  
DETROIT, MI 48226

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F: (313) 771-5785

 MARKOLAW

# ***Answer to Plaintiff's Complaint***

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNT OF WAYNE

FLORENCE JOHNSON-FRANKLIN,  
  
Plaintiff,

Case No: 21-002187-NO  
Honorable Martha M. Snow

v

WALMART, INC.,  
  
Defendant.

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KATHERINE H. OLDS (P84603)  
MARKO LAW, PLLC  
Attorneys for Plaintiff  
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RICHARD G. SZYMCZAK (P29230)  
ROCHELLE L. CLARKE (P79054)  
PLUNKETT COONEY  
Attorneys for Defendant  
38505 Woodward Avenue, Suite 100  
Bloomfield Hills, MI 48304  
Phone: 248-342-7007 / 810-342-7020  
Facsimile: 248-901-4040  
Email: [rszymczak@plunkettcooney.com](mailto:rszymczak@plunkettcooney.com)  
Email: [rclarke@plunkettcooney.com](mailto:rclarke@plunkettcooney.com)

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**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT**

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NOW COMES Defendant, WAL-MART STORES EAST LP, a foreign limited partnership, misidentified in the Complaint as WALMART, INC., by and through its attorneys, PLUNKETT COONEY, and in Answer to Plaintiff's Complaint, states as follows:

**INTRODUCTION**

1. In response to the allegations contained in paragraph 1, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.



2. In response to the allegations contained in paragraph 2, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

3. In response to the allegations contained in paragraph 3, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

### **PARTIES**

4. In response to the allegations contained in paragraph 4, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

5. No contest.

### **COMMON FACTUAL ALLEGATIONS**

6. In response to the allegations contained in paragraph 6, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

7. In response to the allegations contained in paragraph 7, Defendant denies the allegations contained therein in the form and manner alleged an in fact.

8. In response to the allegations contained in paragraph 8, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

9. In response to the allegations contained in paragraph 9, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

10. In response to the allegations contained in paragraph 10, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

11. In response to the allegations contained in paragraph 11, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

12. In response to the allegations contained in paragraph 12, Defendant denies the allegations contained therein in the form and manner alleged and in fact.

13. In response to the allegations contained in paragraph 13, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

14. In response to the allegations contained in paragraph 14, Defendant denies the allegations contained therein in the form and manner alleged and in fact.

15. In response to the allegations contained in paragraph 15, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

16. In response to the allegations contained in paragraph 16, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

17. In response to the allegations contained in paragraph 17, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

18. In response to the allegations contained in paragraph 18, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

19. In response to the allegations contained in paragraph 19, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

20. In response to the allegations contained in paragraph 20, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

21. In response to the allegations contained in paragraph 21, Defendant is without knowledge or information sufficient to form a belief as to the truth of same and leaves Plaintiff to her strict proofs.

22. In response to the allegations contained in paragraph 22, Defendant denies the allegations contained therein in the form and manner alleged and in fact.

**COUNT I- NEGLIGENCE**

23. Defendant incorporates by reference and otherwise repeats and realleges its answers to Paragraphs 1-22 of the Complaint as if set forth in their entirety.

24. In response to the allegations contained in paragraph 24, Defendant denies the allegations contained therein in the form and manner alleged and in fact.

25. In response to the allegations contained in paragraph 25, Defendant denies the allegations contained therein in the form and manner alleged and in fact.

26. In response to the allegations contained in paragraph 26 (a)-(f), Defendant denies the allegations contained therein in the form and manner alleged and in fact.

27. In response to the allegations contained in paragraph 27 (a)-(m), Defendant denies the allegations contained therein in the form and manner alleged and in fact.

**COUNT II- PREMISES LIABILITY**

28. Defendant incorporates by reference and otherwise repeats and realleges its answers to Paragraphs 1-27 of the Complaint as if set forth in their entirety.

29. In response to the allegations contained in paragraph 29, Defendant denies the allegations contained therein in the form and manner alleged and in fact.

30. In response to the allegations contained in paragraph 30, Defendant denies the allegations contained therein in the form and manner alleged and in fact.

31. In response to the allegations contained in paragraph 31, Defendant denies the allegations contained therein in the form and manner alleged and in fact.

32. In response to the allegations contained in paragraph 32(a)-(g), Defendant denies the allegations contained therein in the form and manner alleged and in fact.

33. In response to the allegations contained in paragraph 33 (a)-(m), Defendant denies the allegations contained therein in the form and manner alleged and in fact.

WHEREFORE, Defendant respectfully requests this Honorable Court enter an Order for Judgement of No Cause for Action in its favor, together with costs and attorney fees to be taxed.

Respectfully submitted,

/s/Rochelle L. Clarke  
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Dated: March 23, 2021

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNT OF WAYNE

FLORENCE JOHNSON-FRANKLIN,  
  
Plaintiff,

Case No: 21-002187-NO  
Honorable Martha M. Snow

v

WALMART, INC.,  
  
Defendant.

---

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**DEFENDANT'S RELIANCE UPON JURY DEMAND**

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NOW COMES Defendant, WAL-MART STORES EAST LP, a foreign limited partnership, misidentified in the Complaint as WALMART, INC., by and through its attorneys, PLUNKETT COONEY and hereby relies upon the Demand for Trial by Jury filed by Plaintiff.

Respectfully submitted,

/s/Rochelle L. Clarke  
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Dated: March 23, 2021

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNT OF WAYNE

FLORENCE JOHNSON-FRANKLIN,  
  
Plaintiff,

Case No: 21-002187-NO  
Honorable Martha M. Snow

v

WALMART, INC.,  
  
Defendant.

---

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**DEFENDANT'S AFFIRMATIVE DEFENSES**

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NOW COMES Defendant, WAL-MART STORES EAST LP, a foreign limited partnership, misidentified in the Complaint as WALMART, INC., by and through its attorneys, PLUNKETT COONEY and hereby asserts the following Affirmative Defenses in the above-entitled cause of action:

1. Plaintiff has failed to state a valid claim in whole or in part upon which relief can be granted; therefore, Defendant is entitled to summary disposition as a matter of law.



2. There is no genuine issue as to any material fact; therefore, Defendant is entitled to summary disposition as a matter of law.

3. The premise in question was maintained in a reasonably safe condition at all times relevant to this action.

4. Defendant did not know or have reason to know of the dangerous or defective condition referenced in Plaintiff's Complaint.

5. Plaintiff's claim is barred by the open and obvious doctrine.

6. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations.

7. The sole and proximate cause of any and all injuries suffered by Plaintiff is the result of Plaintiff's own contributory and/or comparative negligence.

8. The sole and proximate cause of any and all injuries suffered by Plaintiff, are the result of Plaintiff's own conduct.

9. To the extent applicable, the sole, direct and proximate cause of Plaintiff's injuries was an independent intervening act beyond the control of Defendant.

10. Plaintiff has failed to mitigate her damages.

11. Plaintiff's claims may be barred by the doctrine of laches in that some evidence may no longer be available or may be in an altered state, prejudicing and/or preventing Defendant from preparing its defense.

12. To the extent Plaintiff seeks recovery from Defendant premised upon damages for medical care, rehabilitation service or any other economic loss, all or part of which have been paid or are to be paid by a collateral source, Defendant is entitled to have a reduction of that portion of any judgment pursuant to MCL 600.6303.

13. Defendant complied with all duties applicable under Michigan law, and therefore, denies that it has breached any duties owed to Plaintiff resulting in Plaintiff's alleged injuries.

14. Defendant reserves the right to amend its affirmative defenses as same become known through discovery.

Respectfully submitted,

/s/Rochelle L. Clarke  
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Rochelle L. Clarke (P79054)  
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Dated: March 23, 2021

#### **PROOF OF SERVICE**

The undersigned certifies that on the 23<sup>rd</sup> day of March, 2021, a copy of the foregoing document was served upon the attorney(s) of record in this matter at their stated business address as disclosed by the records herein via:

<input type="checkbox"/> Hand delivery	<input type="checkbox"/> Overnight mail
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> Facsimile
<input type="checkbox"/> E-Mail	<input checked="" type="checkbox"/> Electronic e-file

I declare under the penalty of perjury that the foregoing statement is true to the best of my information, knowledge and belief. Glow

*Kimberly Webster*

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Kimberly Webster

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